

Claims 13-26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gerhartl et al (U.S. Patent No. 5,480,699) in view of Seidler (U.S. Patent No. 4,184,499). Claim 13 is the sole independent claim.

Claim 13 is directed to a hydrophilic cotton product comprising at least one first outer layer and at least one second outer layer. The first outer layer includes fine fibers exhibiting a low micronaire value and providing a soft side to the product. The second outer layer includes fibers exhibiting a micronaire value higher than the low micronaire value of the first outer layer. The second outer layer additionally provides a scraping surface to the product. A beneficial feature of the claimed product is the presence of two outer sides with different surfaces for providing different functions. One side is for scraping and therefore is useful to cleanse the skin, remove make-up or the like. The other side due to the provision of softness thereto allows for the application of make-up, lotion or the like to the face or skin of a consumer. (See specification, paragraph bridging pages 3-4.) Thus, the recognition and provision of a pad with such dual surfaces and the capabilities provided thereby is distinctive to the claimed invention. The applied art of the rejection,

however, does not teach or suggest this claimed feature.

Gerhartl teaches a pad of cotton mat or similar material for applying and/or absorbing liquid or semi-solid substances. The pad has at least two plies which are compressed on both the outer surfaces to prevent lint formation. Gerhartl does not teach providing a soft outer surface and a scraping outer surface to different outer layers of a pad, but simply teaches a "product that feels very soft and fluffy, but does not become liny or dusty" (see column 2, lines 50-51). No recognition of criticality is present in Gerhartl as to providing a soft side and a side with a scraping surface.

Additionally, Gerhartl does not teach providing the outer layers having fine fibers exhibiting specific micronaire values. The Examiner specifically acknowledges this shortcoming of Gerhartl on page 3 of the outstanding official action stating "[a]s to claim 13, Gerhartl fails to teach that the "first outer layer" comprises fine fibers exhibiting a low micronaire value and the "second outer layer" exhibiting a micronaire value higher than the low micronaire value of the first layer."

The Examiner relies on Seidler to make up for the shortcomings of Gerhartl. In particular, the Examiner

relies on the teaching in Seidler of a buffer with two different materials of different fineness on opposing sides.

Seidler teaches a holding device for applicators, nail buffers, massagers and the like having two separate working surfaces. Specifically, Seidler teaches a buffering device consisting of a frame having opposing handles along living, reversible hinges integrally attached thereto. Within the frame and integrally attached thereto is a backing element to each side of which is secured by pressure sensitive adhesive or other suitable means supporting elements on which are placed buffering materials having different degrees of fineness. The handles are preferably provided with cutouts for insertion of the fingers of the user. Either one or both buffering materials may be replaced by applicator or massage materials such as felt, sponge or molded scrubbing or massage materials.

Seidler contains no teaching or suggestion of a hydrophilic cotton product of cotton fibers having at least two layers of two different micronaire values. Seidler only discloses the use of two different buffering materials, one being fine and one being coarse in nature, which are adhered to a supporting element adhered in turn to a frame.

Contrary to Seidler, the first outer layer and the second

outer layer of applicant's claimed product each comprise fine fibers exhibiting different micronaire values. In view of the different uses of the articles of Gerhartl and Seidler, i.e., application of substances to skin as opposed to buffing nails respectively, applicant submits that there is no suggestion to modify Gerhartl in view of the limited teaching of Seidler in the absence of hindsight based on applicant's teachings. Further, Seidler teaches "fineness" without definition. Applicant claims a degree of fineness, micronaire, with respect to cotton fibers. Accordingly, in view of the above differences, applicant submits that Gerhartl in combination with Seidler does not suggest applicant's claimed invention within the meaning of 35 U.S.C. § 103.

Further, as to the dependent claims, Gerhartl in view of Seidler does not teach or suggest the specific micronaire values claimed. The Examiner specifically acknowledges that on pages 4-5 of the official action that as to claims 14-15, 19-20 and 24, Gerhartl in view of Seidler does not disclose:

"that the first outer layer exhibits a micronaire value between 2 and 5 micrograms/inch and the second outer layer exhibits a micronaire value between 4 and 10 micrograms per inch, wherein the differential of micronaire values for the first outer layer and the second outer layer is at least

1 microgram/inch as required by claim 14, the first outer layer exhibits a micronaire value between 2.8 and 4.2 micrograms/inch and a second outer layer exhibits a micronaire value between 5 and 8.5 micrograms/inch as required by claim 15, the spacing between the striations of the first outer layer is between 0.4 and 1.2 mm and the spacing between the striations of the second outer layer is between 1.2 and 3 mm as required by claim 19, the first outer layer comprises striations of mutual spacings between 0.4 and 1.2 mm and the second outer layer comprises striations in a sequence comprising several sets of striations that is between 0.4 and 1.2 mm and each set of striations is separated by another set of striations by a distance of between 1.2 and 4 mm as required by claim 20 and the water jets in the manufacturing line are mutually spaced apart by a distance that differs for the water jets used on the first outer layer and the second outer layer as required by claim 24."

The Examiner is incorrect in her assertion that this would have been obvious to one having ordinary skill in the art at the time of the invention in view of the lack of teaching and dissimilarities in products disclosed in Gerhartl and Seidler.

Accordingly, applicant submits that the combination of Gerhartl and Seidler fails to render the claimed invention obvious within the meaning of 35 U.S.C. § 103. Withdrawal of the § 103 rejection is respectfully requested.

Reconsideration and allowance of the claims is respectfully urged.

5592/USSN 10/018,050
Group Art Unit 1771

Respectfully submitted,
BERNARD LOUIS DIT PICARD

By Mary Breiner

Mary J. Breiner, Attorney
Registration No. 33,161
BREINER & BREINER, L.L.C.
115 North Henry Street
P.O. Box 19290
Alexandria, Virginia 22320-0290

Telephone: (703) 684-6885